

Guidance on Gifts

RCW 42.52.140 prohibits a state officer or state employee from receiving, accepting, taking, seeking, or soliciting, directly or indirectly, any gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

The term “gift” is defined under the statute as anything of economic value for which no consideration is given. Gifts do not include:

- Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
- Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
- Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;
- Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
- Items a state officer or state employee is authorized by law to accept;
- Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
- Campaign contributions reported under chapter 42.17 RCW;
- Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and
- Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

Question: Is there a monetary limit to the amount of gifts a state employee or officer can receive?

Answer: Yes. In general, state employees/officers cannot accept gifts with an aggregate value in excess of \$50 from a single source in a calendar year. The value of the gift given to an employee's family or guest can be attributed to the employee for the purpose of determining whether the limit has been exceeded.

Question: Is there anything that would not be considered a gift?

Answer: Yes. The statute specifically names certain items that would not be considered gifts. These include:

- Unsolicited flowers, plants, and floral arrangements *if you are not considered a "Section 4 employee"*;
- Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- Unsolicited items received by a state officer or state employee for their evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
- Unsolicited gifts from dignitaries from another state or a foreign country that is intended to be personal in nature.

Question: Are there any other restrictions regarding when a state employee/officer may accept a gift?

Answer: Yes. If your duties include regulating or contract with certain entities, the statute places stricter restrictions on your ability to accept gifts from them. If your duties

include decisions about contracting or purchasing, these gift restrictions apply to gifts from a potential future contractor or vendor as well.

Question: Where are these restrictions mentioned in the statute?

Answer: These restrictions are identified under RCW 42.52.150(4). State employee/officers who fall under these restrictions are called “Section 4” employees because the restrictions are under section (or paragraph) 4 of the statute.

Question: If I fall under these stricter restrictions are there any specific items that I can accept?

Answer: Yes. In addition to the items that are excluded in the statute under the definition of a “gift,” you can accept the following items:

- Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization

Question: If I fall under these stricter restrictions are there any specific items that I cannot accept?

Answer: Yes, the statute specifically identifies the following items as prohibited:

- Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

- Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and
- Flowers, plants, and floral arrangements.

Food/beverages

Question: What is the definition of a hosted reception?

Answer: A hosted reception is an event involving a diverse group of people, not diverse ethnically, but diverse in their vocations and business organizations, that would not be considered a meal, i.e., sit down breakfast, lunch or dinner or buffet breakfast, lunch or dinner. The group needs to include individuals that are not regulated by the state employee's/officer's agency or with whom they contract or may contract in the future.

Example 1:

The XYZ Corporation is regulated by a state agency. XYZ opened a new facility and invites a number of people to view the facility including state officers and employees who participate in regulatory matters, as well as their non-state customers, and officials from other governmental entities. At the conclusion of the tour, the XYZ Corporation provides food and beverages, including substantial hors d'oeuvres. There are some tables where guests may be seated but some people stand. **This event is a hosted reception.** It is a social event that involves a diverse group of people and does not involve a sit-down meal, even though tables and chairs are provided.

Example 2

The XYZ Corporation is negotiating a contract with a state agency. The negotiations are expected to last several days. The evening before negotiations are to begin, the XYZ Corporation invites the officers and employees who will participate in the negotiations to an event to meet the XYZ employees who will be participating in the negotiations. The XYZ Corporation serves food and beverages, including substantial hors d'oeuvres. Although there are some tables and chairs, most people stand. **This event is not a hosted reception.** Even though it is not a sit-down meal, it does not involve a diverse group of people. The only ones attending are state officers and employees who participate in contractual matters and members of XYZ Corporation involved in negotiating the contract.

Question: Does a state officer or state employee violate the gift limitations if he/she accepts unsolicited token refreshment items of nominal value which are offered as a gesture of common courtesy from a regulated business while performing official activities at their place of business?

Answer: No, if acceptance is limited to unsolicited token beverage items, such as water, coffee, tea or juice, that are generally made available by the business, free of charge, to the business's employees, customers and/or visitors. This would not include food items.

Question: Can a state employee/officer accept meals and refreshments offered by vendors when a vendor sponsors a presentation at an agency and provides breakfast or lunch to agency participants who are not "Section 4" employees?

Answer: Yes. RCW 42.52.150(5) allows state officers and state employees who are not "Section 4" employees to accept meals offered on an infrequent basis when attendance is related to the performance of official duties.

Question: Can a state employee/officer accept meals and refreshments offered by a vendor when the vendor sponsors a presentation and pays for a meal for "Section 4" state employees and their spouses?

Answer: No. "Section 4" employees may not accept meals, even when they are offered on an infrequent basis when attendance is related to official duties. Spouses of "Section 4" employees may also not accept the meal, unless there is an independent business relationship between the vendor and the spouse.

Question: Can a state employee/officer take part in (eat) a dinner hosted and paid for by a vendor at a national conference that is sponsored in conjunction with a governmental organization?

Answer: Yes, if the sponsored event is included as part of the official conference program, and all conference attendees have an equal opportunity to attend the event. This does not apply to separately held events that are only incidental to the official conference, i.e., hospitality rooms.

Performance awards

Question: Can classified staff and faculty members at community colleges and other institutions of higher education accept cash awards for outstanding service from a non-profit foundation organized for the support of the college or institution?

Answer: Yes. Under RCW 42.52.110(2) classified staff and faculty members at community colleges and other institutions of higher education may accept cash awards for outstanding service from a nonprofit foundation when the foundation is organized for the purpose of supporting the college or institution. These cash awards are not subject to the \$50.00 gift limitation.

Question: Can a state officer or employee accept a cash prize in excess of \$50, which is presented in connection with an award to the officer or employee for excellence in government?

Answer: No. A cash prize falls within the definition of gift, unless awarded in recognition for academic or scientific achievement, so the gift limit of \$50 would apply.

Travel expenses

Question: Can a state officer or employee use frequent flyer miles earned from official state travel for personal travel?

Answer: Yes, with limitations – State agencies may allow state officers and employees to use frequent traveler benefits earned on official travel. While the Ethics Act does not prohibit the personal use of frequent flyer miles earned while conducting official state travel, receiving such rewards is a beneficial interest in a state transaction. Therefore, state officers or employees may not participate in the selection of a carrier when they receive frequent flyer miles for travel on that carrier.

Question: Can a state officer or employee donate airline tickets to a state agency for official state travel by using personal frequent flyer miles?

Answer: Yes – The Ethics in Public Service Act does not prohibit a state officer or employee from donating personal property or benefits, such as frequent flyer miles, to a state agency.

Question: Can a state officer or employee purchase airline tickets for official state travel using personal frequent flyer miles and then seek reimbursement of that travel payment from the state?

Answer: This question is governed by state travel regulations, which provide that personal funds can only be used to purchase airline travel in emergencies.

Question: Can a state officer or employee use other types of points earned through travel incentive programs for personal use?

Answer: Yes, state employees/officer may use points earned, such as motel/hotel point rewards, rental car rewards, and any other travel benefit of a similar nature for personal use.

Discounts

Question: Are discounts offered to state employees considered gifts?

Answer: No, discounts available to a state employee/officer as a member of an employee group, occupation, or similar broad-based group are excluded from the definition of “gift” in the statute.

Door prizes

Question: Can a state officer or employee keep a door prize received at a conference that they attended that was paid for by their agency?

Answer: A state employee/officer may not keep a door prize if the state agency paid for the conference and the employee/officer is attending the conference, seminar, trade show, or similar event on state time. Should a state employee/officer win a door prize at the event, they must give it to their agency. The agency may either keep the prize or dispose of it in accordance with state rules and regulations. The agency may not allow the state employee/officer to keep the prize. If the state employee/officer pays for the conference or seminar and attend it on their own time (including using vacation time to attend), then they may retain any door prize won at the conference or seminar.

Question: If I buy a raffle ticket at a conference and win the item being raffled off, is it considered a gift?

Answer: If you purchase a raffle ticket at a conference or other state event, assuming that the raffle itself was legal, and win the item being raffled, it would not be considered a gift and you may keep the item.

Textbooks

Question: May state higher education faculty sell complimentary textbooks, which were received under an exemption to the gift prohibitions?

Answer: No. While state officers and employees, including state higher education faculty, may accept gifts of informational material, publications, or subscriptions to review or use to perform their official duties, once received, state officers and employees may use or retain such items in a manner consistent with the purpose for which they were provided or dispose of them as provided under RCW 42.52.010(10)(g). More specifically, the Ethics Act prohibits higher education faculty from selling complimentary textbooks.

Miscellaneous

Question: What are we supposed to do with thank you gifts given to our office by someone who really appreciated our effort?

Answer: State agencies aren't regulated by the gift statute, so if the gift was truly given to the agency, the ethics law does not apply. However, if the gift was given to an individual, that person may or may not be able to keep it depending on the relationship to the gift giver.

Question: What do I do if I receive a gift I cannot keep?

Answer: You can do one of several things: 1. do not accept the gift initially if that is possible; 2. return the gift to the sender as long as you do so within 30 days from receipt; or 3. donate the gift to the charity